

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9474 OF 2004

Smt.Neelwanti Suryakant Bhagat Petitioner

versus

Regional Transport Officer
(RTO), Mumbai and others Respondents

M.D.Parab, adv. for petitioner.

N.P.Deshpande, AGP for respondents 1 to 4.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 23rd December 2004

PC :

1. Heard learned counsel for parties.
2. Petition is directed against an order detaining a vehicle bearing No.MH-04-3869 by Regional Transport Officer (East), Mumbai.
3. Admittedly, the said vehicle belongs to petitioner who is a transport operator. It is her grievance that the said vehicle is registered with RTO, Pen, Dist. Raigad. It is contended by the petitioner that the said vehicle is her only

source of livelihood. She has an illiterate person. The vehicle was driven by her driver. The vehicle is mostly operating in Raigad District. However, when the vehicle entered the Municipal Limits of Mumbai, it was intercepted and seized by first respondent on 3rd November 2004. The said action is taken on the ground that the vehicle is more than eight years old and in view of the order passed by this Court in Writ Petition No.1762 of 1999, such vehicle cannot ply in the city of Mumbai.

4. Mr.Parab, learned counsel appearing for the petitioner submits that the vehicle is eight years and two months old. The vehicle was not deliberately brought within the Mumbai limits but the driver of the vehicle at the relevant time was not aware of the order of this Court. The vehicle is not plied in Mumbai. Mr.Parab, on instructions, makes a statement that the petitioner will file an undertaking with the respondents within a period of two weeks from today that the said vehicle will not ply in Mumbai.

5. In our view, considering the peculiar facts of this case and the statement of learned counsel

for the petitioner expressing willingness to file an undertaking, the authorities can be directed to release the vehicle. Accordingly, following order :-

A) On the petitioner filing an undertaking with the respondents that the vehicle will not ply in Mumbai, respondents are directed to release the same from their custody;

B) The undertaking as above should be filed within a period of fifteen days from today;

C) Needless to observe that if the undertaking is not given as above, the authorities to proceed and take appropriate action in accordance with law.

6. Petition disposed of.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)